

A MEETING OF THE SEWER BOARD OF THE CIVIL CITY OF NEW ALBANY, INDIANA, WILL BE HELD IN THE THIRD FLOOR ASSEMBLY ROOM OF THE CITY-COUNTY BUILDING ON THURSDAY, APRIL 24, 2008 AT 8:30 A.M.

PRESENT: Chairman Ron Carroll, Vice Chairman Bill Utz, Elizabeth Coyle.

OTHERS: Brian Dixon and Rob Sartell, EMC, City Clerk Marcey Wisman, Lee Buchanan and April Dickey.

CALL TO ORDER:

Mr. Carrol called the meeting to order at 8:30 a.m.

PLEDGE OF ALLEGIANCE:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Carroll moved to approve the March 13th meeting minutes as amended, Ms. Coyle second, all voted in favor.

BIDS:

Mr. Dixon presented four quotes to repair the line in Grantline Road Industrial Road on Foundation Blvd in the creek. The low bid was from Excell for \$9,850. He stated that he talked with them and they have considered all the aspects of this job in the quote.

Mr. Carroll asked what he knew about this company.

Mr. Dixon stated that they have worked with this company many times and they have always done a good job and they have always finished their jobs for the amount they quote.

Ms. Coyle stated that when they run out of money at the end of the job are and erosion and sediment control and restoring disturbed areas are the places that suffer and they have had a big problem with that in general in the past.

Mr. Utz moved to approve the quote for Excel based on Mr. Dixon’s recommendation, Ms. Coyle second, all voted in favor.

Mr. Dixon stated they have an emergency job on Culbertson where the road is caving in. He explained that they have tried to televise the line but it is holding water so their best guess is the pipe has separated and they are currently pumping sand out of the down stream manhole and water out of the upstream manhole on a daily basis. He stated that he has received quotes from 4 contractors to replace the entire line from one manhole to the other.

TSI	\$85,213.78
Coffman Construction Exc	\$236,275.25
Excel Excavating	\$231,875.00
MAC	\$132,575.00

Mr. Dixon stated that the bid is to replace approximately 875 feet of sanitary sewer clay pipe, extend the laterals to the property lines, and put in back-flow prevention and backfill accordingly.

Ms. Coyle stated that the wet sandy soil is going to make this difficult.

Mr. Utz asked if **Mr. Dixon** could review these because the amounts are so different.

Mr. Dixon said he can but they need some type of relief soon.

It was decided that Ms. Coyle and Mr. Dixon would review the bids and meet tomorrow morning to vote at 10:00 a.m.

COMMUNICATIONS - PUBLIC:

Michael Larner, represented his mother explained the history of the property and the sewage problems that she has been having for the last 30 months. He stated that last Tuesday night a sewer employee came out to blow out the line and she has had standing sewer in her basement since then. He explained that they have a default judgment against the Sewer Board and they are waiting to hear about damages in front of Judge Cody for the issues from 30 months ago but they would like to know if there is anything they can do to expedite the process since she has four inches of sewage in her basement.

Mr. Buchanan stated that he just learned of this issue yesterday and the City Attorney was never served on this lawsuit and he will be filing a motion to dismiss the default judgment. He stated that the City Attorney is now handling this case so he believes that the board should defer to him. He explained that **Mr. Gibson** stated that he is willing to work with these individuals and they will have to go through him to get this resolved.

Mr. Larner stated that on November 13th 2007 **Ms. Kelly Welsh** accepted service on behalf of the sanitary sewer board regarding the lawsuit.

Mr. Buchanan informed him that it is not proper to serve an administrative individual and if he wanted to sue the board the individual members would have to be served, but they served the wrong individual and this is critical to their case and will be contested in court.

Ms. Coyle asked for an engineering explanation as to why this continues to happen.

Mr. Dixon explained that they responded to a call and one of their guys went out and they cleaned the line like they normally would and they noticed an enormous amount of grease build-up in the line. He stated that this was the same problem that they had last time out there and three years is a relatively short time for that amount of grease to build back up. He explained that they did get the line operating; however when you are shooting a line that is full of water the water is going to move at times in different directions than you want it to go and it can't be controlled. He stated that he was informed that the individuals had water in their basement before this occurred and this added to it. He stated that they have looked into the sources of the grease and there is a line that runs across **Kohl's** parking lot back to the strip mall out front that has two restaurants on it. He explained that they contacted both restaurants to see if the grease traps were being cleaned regularly and they have received the information from **Pizza King** and are waiting on the paperwork from the **Asian Buffet**. He stated that they did walk the line to see if grease was built up in the manholes but it is a private line and once it gets off **St. Joe's** they don't have an easement there and he can't do any work on that line because it is outside of their area but it does limit the sources of the grease. He stated that they are looking into the possibility of a grease interceptor which will capture more grease than a grease trap and would require them to be placed outside of the restaurant and it has to be maintained.

Mrs. Coyle asked if they already had an ordinance on file to regulate that.

Mr. Sartell stated that they do have a grease ordinance that requires the establishments to clean their grease traps twice annually and for the most part the private sector is doing their job with this.

Mrs. Coyle asked if the Larner's are in a low lying area and need back-flow prevention.

Mr. Dixon stated that as part of her neighbor's settlement they had to install one but he is not sure about the status of this case, but they are not in a low lying area.

Mr. Carroll moved to send someone out to clean the basement, **Ms. Coyle** second, all voted in favor.

COMMUNICATIONS - CITY OFFICIALS

SEWER ADJUSTMENTS:

NEW BUSINESS:

Item #1 - Rick Fox, County Commissioners Office re: county wide sewer system

Mr. Fox addressed the board on behalf of Georgetown and Floyd County. He stated that as of February 2009 Georgetown goes from a wholesale rate to a retail rate. He stated that they are currently looking into a new location for their sewer plant. They have filed a motion to see if Floyd County should approve their putting this plant in this area. He explained that in 1991 the county had a study done to see where the best location would be for a sewer plant and they really could not find one. He discussed the problems they are facing with building this plant. He said that the factor that impedes this process is the fact that as of February 2009 Georgetown will be a retail customer. He stated that he is here on behalf of Floyd County to ask if they would suspend Georgetown going to a retail rate and what information this board would require from the County to keep them up-dated on the process of this project.

Mr. Buchanan asked if he is also asking for suspension of the \$450,000 penalty.

Mr. Fox stated that he was not familiar with that amount.

Mr. Utz informed them that the \$450,000 was the difference between what was established during mediation which was \$1,250,000 and the amount that was agreed upon during negotiation between this board and Georgetown to settle for \$800,000. He stated that it was decided at that time it was important to the board that Georgetown not be able to remain a New Albany customer on terms that were more favorable than those that were initially agreed to.

Mr. Carroll asked exactly what considerations is he asking for.

Mr. Fox stated that they are asking that remain a wholesale customer as long as they are heading down the path of getting them hooked up to a more desirable location.

Mr. Carroll asked why they couldn't give them something more specific so that they can consider it.

Mr. Fox stated that they want to get this started immediately but they are still at the preliminary stages of discussion with how they want to head down this path. He stated that right now there is no way that Georgetown is going to be off the New Albany line by February 2009.

Mr. Utz stated that all they would need to do is commit to construction by February 1, 2009 and complete it by February 1, 2010 to avoid going to a retail customer.

Mr. Fox stated that it is going to be very difficult to entertain any type of negotiation without the cooperation of the City of New Albany.

Mr. Carroll stated that there is a difference between seeing some type of progress like construction or a plan for construction and just sitting back and waiting for them to come back again asking for consideration.

Ms. Coyle stated that earlier this year someone came from Georgetown and told them they needed an extension due to there not being a road worked into the project and at that time the board asked for a schedule and now they are coming again for another extension because they have changed the site. She stated that at this point they should be preparing for construction and this has nothing to do with what initially was negotiated.

Mr. Fox stated that there has never been anything negotiated between Floyd County and Georgetown with respect to building.

Mrs. Coyle stated that they were supposed to be on a schedule and making plans.

Mr. David Andrews, attorney for Georgetown stated that Georgetown's plans are made. He stated that they have IDEM permits to construct, negotiated contracts and bond anticipation notices, passed ordinances as required and are ready to construct on the O'Brien site.

Mr. Fox stated that the location that they have now is not the best location for that particular plant in Floyd County and there are a number of locations that are better suited and there has already been a study done.

Mrs. Coyle said that siting the plant should have been the first thing that was done and if it was a bad site it should have never been chosen.

Mr. Andrews stated that from Georgetown's perspective it is an ideal site because it is located along the existing force mains that they have but for the county it doesn't fit.

Mr. Buchanan stated that they aren't going to be able to give them anything concrete right now so his suggestion would be that once they have some agreement that they know they can get together on and some definite timelines then they need to bring it back to the board and they can consider it at that time.

Mr. Fox stated that they need to know if they even have the ability on behalf of the board to get relief if they demonstrate that they have a new location that is agreed upon between the parties and they enter into a contract.

Mr. Carroll stated that it would certainly be something they would consider but they need to see some specifics.

There was a lengthy discussion regarding the original agreement with Georgetown and perceived changes that are being made at every board meeting and the need for cooperation from the City of New Albany to start negotiations.

Mr. Utz stated that the two year figure is actually longer than what Georgetown originally said they would need by one year. He stated that they went along with the change in time, they went along with the change in price and now he feels it is time for Georgetown to act.

Item #2 - Ron Foster re: 3922 Horne Ave. extending sewer

Mr. Foster addressed the board regarding a house he moved to Horne Avenue from the Kohl's area. He has been told that in order to tap into the sewers he will have to cut through the street which will add an additional \$3500 and he would like to be able to attach a lateral to his neighbors through a Y connection.

Mr. Dixon stated that this type of connections have caused them a lot of problems over the years.

Ms. Coyle stated that the ordinance says that they cannot permit these connections.

Mr. Carroll stated that this body is governed by the ordinance.

Mr. Utz stated that this could be a problem with EPA.

Ms. Coyle stated that the ordinance was changed because these connections were a problem and they cannot approve this type of connection.

Item #3 - John Miller re: sewer taps waiver for 1413 & 1415 South Avenue- Linden Meadows Subdivision.

Mr. Miller addressed the board regarding two new houses they are putting in on South Street and wanted to know if they could get a waiver for these two houses.

Mr. Carroll stated that they could not waive these taps even if they have done it in the past.

Mr. Miller stated that his second request is for the houses on Linden Meadows which they moved from Cottom Avenue to Linden so they essentially took houses off the line and are just putting them back on. He stated that the City will receive a large amount of Federal money for each house that is sold and explained that they have built the sewer lines at a large cost to them.

There was a lengthy discussion regarding the rules governing tap fees and when they can be waived.

Mr. Buchanan stated that they should take this under advisement before they make this decision.

Mr. Miller asked for a decision on the Linden Meadows project.

Item #4 – Bryce Fuller, 812-207-6488 re: Woodbridge Farms Subdivision, Georgetown, request for 9610 credits

Mr. Fuller engineer for Woodbridge Farms Subdivision in Georgetown, stated his neighbor built an apartment building and needed to go across his property to reach the sewer main and he agreed

Mr. Utz moved to approve his request, Ms. Coyle second, all voted in favor.

OLD BUSINESS:

Item #1 - Clark Dietz re: Project Update

Mr. Christmas stated that they all have his report and the only thing he wants to report on is that the Robert E. Lee Lift station will be going into full service today. Also, he reported that the Country Club has come back with a final offer of \$35,000. He stated that

Mr. Utz moved to approve the \$35,000, Mr. Carroll second, all voted in favor.

Item #2 - Donohue re: Project Update

Mr. Elling gave the members a letter of recommendation to Aquasource for the strainers for a total amount of \$44,000.00. He stated that they checked on all of their references and they all came back good

Mr. Utz moved to approve the bid of Aqua services, Mr. Carroll second, all voted in favor except Ms. Coyle who abstained.

Mr. Elling stated that at this point their contract for their services are complete. They do have an on call contract that still has some money in it.

Ms. Coyle stated that she would feel more comfortable having

Mr. Elling stated that on the 15th Street project he has

Item #3 - Jason Copperwaite re: Basin 35 project

EMC REPORT:

Mr. Sartell stated that he sent a pump to be repaired and the quote came back higher than to buy a new pump and he would like permission to look into a new pump.

CLAIMS:

Mr. Dixon presented the following claims totaling \$872,761.92

Mr. Utz moved to approve, Mr. Carroll second, all voted in favor.

Mr. Carroll recessed until 10:00 a.m. April 25.

Mr. Carroll reconvened the meeting at 10:12 p.m.

Ms. Coyle stated that the first thing they needed to discuss was the bid for the Culbertson Sewer Repairs for the total amount of \$8,015.78. This amount was adjusted by \$802 for the addition of 1% of the project cost. This was the lowest bid but there are some concerns with their past work at the Robert E. Lee Force main with sediment control issues and with the other utilities in the area.

Mr. Utz asked Mr. Dixon what utilities were in this area.

Mr. Dixon stated that the utilities are overhead.

Mr. Carroll asked what other jobs they have done for us.

Mr. Dixon stated that they worked on the Basin 15 point repairs but they have done several MSD projects and they gave them a good reference.

Mr. Utz stated that it was nip and tuck as to whether they would finish on time, but they did and it was done under the bid amount.

Ms. Coyle stated that she did ask for the performance bond which they agreed to do. She stated that the cost of linear foot in their bid was very inexpensive and the labor is only \$25,000, but what if they go over the 15 days.

Mr. Dixon stated that even if they go over the days they will not be charging more they will just be out of the money.

Mr. Carroll asked if they have had any change orders in the past.

Mr. Dixon stated

Ms. Coyle stated that they will be in an alley away from utilities and they do good paving.

Mr. Utz stated he doesn't see how they can't accept their offer.

Ms. Coyle asked if they considered the de-watering in their bid.

Mr. Dixon stated that they will be using a 6" pump for de-watering and a 3" for bypass sewage pump for which is sufficient.

Ms. Coyle asked if they will be pumping the sewage.

Mr. Dixon stated that they will.

Mr. Utz says it looks as though this is the only way to go.

Ms. Coyle stated that if the project was any larger she would be hesitant to accept them, but this is smaller and she feels they can handle this.

There was a lengthy discussion regarding the performances of the different contracting companies on the projects that the City has completed recently.

Mr. Utz made a motion to approve TSI for the total amount of \$86,015.78, Ms. Coyle second as long as they provide the performance bond, Mr. Carroll second, all voted in favor.

Mr. Carroll stated that after the meeting yesterday there was a conversation with Rick Fox and he asked Ms. Wisman to fill them in.

Ms. Wisman stated that she had some concerns that Mr. Fox was coming to the board to represent the county in favor of Georgetown when he is actually suing the board and currently still has a lawsuit against the board because of work he did for New Albany against Georgetown.

Mrs. Coyle stated that it is a conflict of interest.

Mr. Carroll stated that he acted as though he was representing the commission and he might just be representing one person.

Ms. Wisman stated that Mr. Seabrook was on this board for many years and he knows the history with Georgetown and she can't imagine that he would approve extending the contract.

Mr. Dixon stated that all indications when Mr. Seabrook was on the Sewer Board were that he wanted to follow along with the contract that was presented. He explained that it was a unanimous vote from the entire board.

Mr. Carroll stated that he was told that the City agreed to settle for \$25,000 for the suit that Mr. Fox had against the City.

Mr. Utz stated that there was an attempted mediation and the final offer was \$75,000 and he didn't think they ever got to that number but they go somewhere around \$50,000. He stated that they are supposed to meet on this again.

Ms. Wisman stated that she doesn't believe that they ever received itemized bills and explained that this goes back to 1997 or 1998 when Lee Cotner was asked to represent the Sewer Board.

Mr. Utz explained that the contract stated that whatever amount was collected they would get 1/3 and they had an initial mediation where it was agreed that this would be settled for \$100,000. He stated at the same mediation hearing there was a second unrelated issue that was also settled which was the \$1.2M that Georgetown was going to have to pay for the line that was coming in to pay the service. He stated that Fox & Cotner then decided that they wanted 1/3 of that amount as well which had nothing to do with the original contract.

Ms. Wisman stated that the original lawsuit was only regarding calculation of the amount per gallon because there were some discrepancies on how different individuals were interpreting the formula.

Mr. Utz stated that Presnell Engineering got involved and they made the calculations resulting in a higher rate which Georgetown did not agree with and they continued to pay at the old rate for quite some time and this was an attempt to settle this. He explained that the City of New Albany came out on the short end of that mediation as far as he is concerned because of the fact that New Albany has to use their credits when there is a project going on in Georgetown but they get none of the tap-in fees. He stated that if this reverts back to retail they will start getting those tap fees again. He explained that there was a negotiation between Stan Faith and Ken Griffin and the \$1.2M was negotiated down to \$800,000 and they did pay that amount.

Ms. Wisman stated that Georgetown has been getting a great deal from New Albany for many years while claiming that they were going to build their own plant since 1997.

Mr. Utz stated that they already extended the time by one year.

Mr. Carroll asked Mr. Utz to give Mr. Seabrook a call and ask him if he has changed his mind on the Georgetown issue.

Mr. Utz presented information regarding the sewer budget and an email that he received from Jennifer Wilson from Crowe Chizek. He reviewed the five year capital improvement master plan with the board. Said plan is on file with the City Clerk's office.

Ms. Welsh stated that she had an adjustment in the amount of \$550.34 for an outside water spicket to an outside garage that leaked.

Mr. Utz moved to approve the adjustment, Mr. Carroll second, all voted in favor.

Mr. Utz asked if there was anything new with the condos.

Mr. Dixon stated that he has not heard anything.

Mr. Utz asked if Mr. Buchanan met with the EPA.

Mr. Carroll stated that they had a conference call.

Mr. Utz asked if he asked about the Basin 35 capacity certification.

Mr. Carroll stated that he was not sure.

Mr. Utz asked if the Mayor has mailed out the letter to CSX.

Mr. Dixon stated that he thinks it may have been sent out but he is not sure because Mr. Malysz had some questions about reviewing the Donahue report. He stated that he gave a copy of the report and he is not sure if the letter was sent after that or not.

Mr. Utz asked if Rob had found out any more about the merits of insulated roofing for the roofing bid.

Mr. Dixon stated that he hasn't heard anything from him

Ms. Wisman stated that Insulated Roofing applied for tax abatement with the City of New Albany and explained that they are moving their entire company from Louisville bringing with them quite a few jobs and good salaries.

Mr. Dixon brought a partial pay request for the basin 15 point repairs in the amount of \$31,111.73.

Ms. Coyle stated that she would like to go out and look at those and track how far along that they are. She asked if everything has been finished off and repaved.

Mr. Dixon said they are doing patches only and gave Mrs. Coyle a map of areas

Mr. Utz moved to approve, Ms. Coyle second, all voted in favor.

Mr. Carroll presented documents from Crowe Chizek regarding bringing the sewer billing back in-house. He stated that they have 180 days to inform Indiana American Water.

Ms. Coyle made a motion to bring sewage billing back in house, Mr. Utz second, all voted in favor.

ADJOURNMENT:

There being no further business before the Sewer Board, the meeting adjourned at 10:56 a.m.

Respectfully submitted,

Ron Carroll, Chairman

Marcey J. Wisman, City Clerk